

# Report to the Planning and Zoning Commission

Prepared by the Maricopa County Planning and Development Department

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**Case: Z2005030** Red Rock Ranch Dog Kennel

Meeting Date: May 4, 2006

Agenda Item: 10

Supervisor District: 4

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**Applicant/Owner:** Hollie & Dean Schwandt

**Request:** Special Use Permit (SUP) for kennel in the Rural-43 zoning district

**Proposed Use:** Breeding kennel for Labrador Retrievers

**Site Location:** East of Citrus Rd. between Lower Buckeye Rd. & Broadway Rd. in the Goodyear area

**Site Size:** Approx. 2.99 acres

**County Island Status:** Class I (City of Goodyear)

## Summary of Conformance with Adopted Plans:

**County Plan:** The County Area Plan identifies this site for Small Lot Residential (2-5 d.u./ac.) land uses. As a quasi-commercial use, the request is not considered in concert with the plan.

**City/Town Plan:** The City of Goodyear's General Plan designates the site for medium density residential (2-5 d.u./ac.). The proposed use does not appear to be in concert with the plan.

**Support/Opposition:** None known

**Recommendation:** Deny

## Description of Proposal:

1. This request is for Special Use Permit (SUP) for a dog kennel in the Rural-43 zoning district. The approx. 2.99 acre (223,201 sq.ft.) site is located 850' east of Citrus Rd. between Lower Buckeye Rd & Broadway Rd. in the Goodyear area. The dog kennel is not open to the public and therefore, has no set hours of operation. The property owner/applicant lives on the property, there are no employees. The applicant is requesting a twenty (20) year SUP and the site is developed.
2. The dog kennel will be use to breed the owners dogs to further their breeding program for their Labrador Retrievers. The dogs are shown in obedience competition, agility competition and for show. Surplus dogs are sold via the internet. The kennel raises 4 different colors of labs and the maximum number of dogs (male & female, various ages & colors) on the property at any one time is 50, but typically on average between 25 to 35 dogs.
3. The property is approx. 2.99 acres. The SUP would cover the entire site, but would allow for changes to the residence to be handled administratively. The house and whelping building are on the first (southern acre), the horse corral & fenced kennel in the second acre and the north acre is fenced corral. (The corrals are not associated with the SUP). The site is accessed off of Citrus Rd. along a 25' (w) access easement surfaced with crushed granite. On site circulation consists of crushed granite circular driveway. There are three (3) parking spaces in front and east of the house. The parking area is also surfaced with crushed granite. A 6' (h) solid block wall extends 250' on the west property line. The remainder of the site is fenced with various types and styles of fencing.
4. The site contains the following structures

Building	Use	Length	Width	Height	Area.
House & 2 car garage	Single Family	77'	62'	2 story	2761 sf
Workshop	Whelping Rm	42.2'	16'	1 story	675 sf
Wood shed	storage	20.8'	5.5'	1 story	114 sf
*Mfg home w/ deck & canopy	storage	47.66'	9.7'	1 story	462 sf
Corral	Horses				
Canopied Kennel		135'	60.75'	1 story	8,201 sf

\*The manufactured home with deck and canopy are not permitted and not allowed as a 2<sup>nd</sup> dwelling unit in Rural-43 zoning.

5. The lot width requirement for Rural-43 is 145'. The subject lot measured at the front yard setback lot is 142'.
6. In addition the following table provides information on the remaining building Setbacks required in Rural 43 and provided

Structure	Required			Provided		
	Min. Front setback	Min. Rear setback	Min. Side setback	Front setback	Rear setback	Min. Side setback
House & 2 car garage	40'	40'	30'	145'	620'	20.21'
Workshop	40'	40'	30'			12.18'
Wood shed	40'	40'	30'			2.49'
2 Canopied Kennels						Between 7' & 10'

7. There is no signage on the site. The site lighting is a combination of security lighting and porch lighting. The three (3) motion detection lights are around the house two (2) in the back and one (1) in the front mounted on the house approx 7' (h).

### Analysis of Conformance with Adopted Plans:

8. **Maricopa County "Eye to the Future 2020" Comprehensive Plan:** The Comprehensive Plan directs staff to the White Tank/Grand Avenue Area Plan. The site is also within the Municipal Planning Area of the City of Goodyear.
9. **White Tank/Grand Avenue (County Area Plan):** The land use plan shows small lot residential (2-5 d.u./ac.). The existing zoning of Rural-43 does not comply with the small lot residential, which is intended to be served by public water and sewer. Further, as a quasi-commercial land use, the request cannot be considered in concert with the area plan.
10. **City of Goodyear General Plan:** The subject site is within the Municipal Planning Area (MPA) of the City of Goodyear. The site is designated for medium density residential (2-5 d.u./ac.) and is adjacent to a Goodyear planned residential development with lots ranging from ½ acre to 1 acre. The City of Goodyear is concerned about odor & waste management, noise, intense of use and fencing. The proposed use does not appear to be in concert with the City's plan.

## **Existing On-Site and Adjacent Zoning:**

- |     |          |          |
|-----|----------|----------|
| 11. | On-site: | Rural-43 |
|     | North:   | Rural-43 |
|     | East:    | Rural-43 |
|     | South:   | Rural-43 |
|     | West:    | Rural-43 |

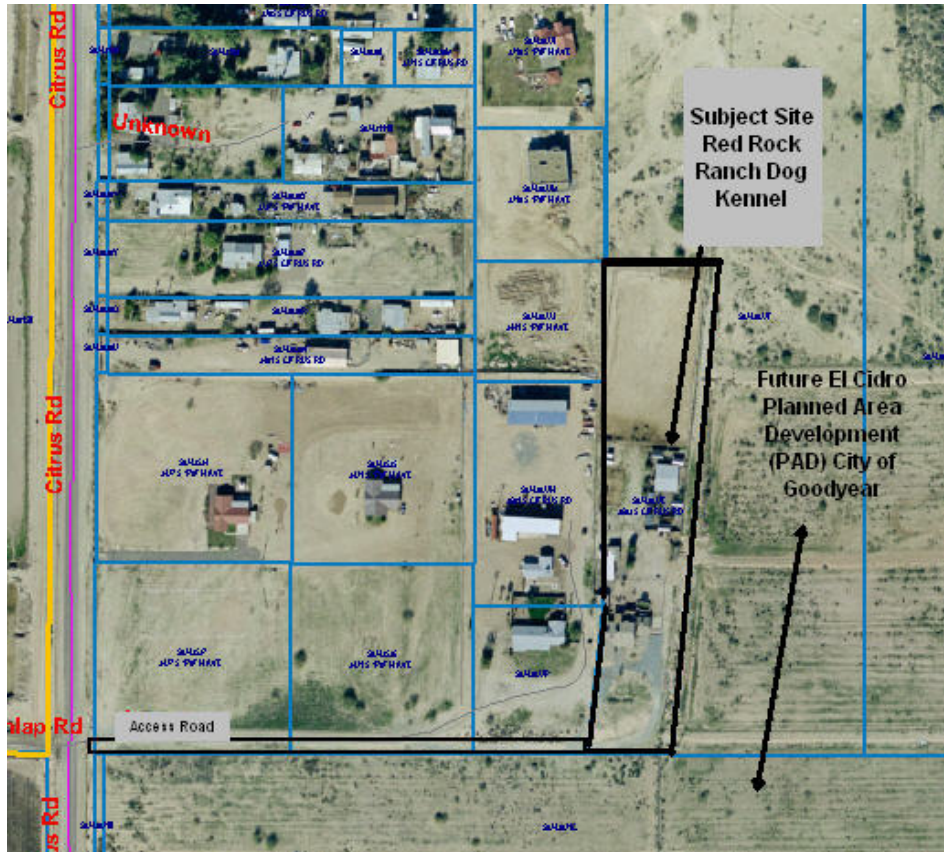
## **Existing On-Site and Adjacent Land Use:**

- |     |          |   |
|-----|----------|---|
| 12. | On-site: | Single Family Residence & family farm                       |
|     | North:   | Vacant desert (future Parcel 1 El Cidro – City of Goodyear) |
|     | East:    | Vacant desert (future Parcel 1 El Cidro)                    |
|     | South:   | Vacant desert (future Parcel 2 El Cidro)                    |
|     | West:    | Citrus Rd. then, farmland & large lot residential           |

## **Area Land Use Analysis:**

13. The land is relatively flat with large (1+ acre) residential lots. The homes in the area are engaged in agricultural uses and have various farm animals on site. However the City of Goodyear is rapidly surrounding the site and promoting residential communities. El Cidro is a large (353.61 acres) multi-phased (12 parcels) Planned Area Development. The 9 residential parcels range in density from 0.90 d.u./ac density up to 3.56 d.u./ac. density with 3 commercial parcels for retail, fire station and water storage. El Cidro PAD and Canyon Trails PAD surrounds this site to the north, south and east.
14. The following air-photo shows the site in relation to the surrounding properties.

[Air photo on next page.]



## Adjacent Road Status:

15. **Citrus Road:** This is a N/S section line arterial alignment. A paved road with no dedicated right-of-way at this time. No dedication or improvements are required.

## Utilities and Services:

16. **Water:** Private (well)
17. **Wastewater:** On-site septic
18. **Fire Protection:** Rural/Metro Fire Department (RMFD)
19. **Police Protection:** Maricopa County Sheriff Office (MCSO)
20. **Electric:** Arizona Public Service (APS)
21. **Natural gas:** None
22. **Telephone:** Qwest Communications

23. **Cable television:** None
24. **Refuse:** Paradise Waste Management
25. **Public schools:** Agua Fria School District
26. **Irrigation:** None

**Reviewing Agencies:** (The request was reviewed at the TAC meeting of May 3, 2005.)

27. **Department of Transportation (MCDOT):** No objection with the following stipulation (see the attached memo):
- Show parking area with dimensions (9'x18') for spaces.
28. **Environmental Services Department (MCESD):** No objection with the following stipulations (see the attached memo).
- Prior to issuance of the SUP, the applicant shall obtain a kennel permit from the Maricopa County Animal Care & Control.
  - The kennel must comply with the applicable provisions of the MCESD County Health Code, Chapter XI.
29. **Drainage Review:** No objection (see the attached memo).
30. **Luke Air Force Base (LAFB):** In a letter dated April 15, 2005, the Director of the Community Initiatives Team for Luke AFB stated the site is approximately 2-½ miles outside the 1988 JLUS 65 Ldn and is within the territory in the vicinity of a military airport. The proposed use will have no impact upon the flying operations. Since the facility is located within the "territory in the vicinity of a military airport" , it will be subjected to approximately 170 over flights per day. Sound attenuation requirements found in ARS 28-8482 are recommended for all new construction.
31. **Rural/Metro Department (RMFD):** In a letter faxed July 6, 2005 RMFD states that they have no comments regarding the project other than the site plan should meet all code standards set by Maricopa County and be approved by Rural/Metro prior to construction (see attached letter).

32. **City of Goodyear:** The City has responded to this request via a letter dated July 18, 2005 with the following comments (attached).
- The proposed kennel will be located adjacent to the property planned for single family residential use, with lot sizes ranging from 1 to ½ acre. While these larger lots are intended as a buffer between the County lots and the smaller lots to the east, this will still be a conventional single family development without animal privileges. Compatibility between the two uses may be an issue.
  - It is anticipated that 20 to 30 dogs will generate significant noise trespass beyond the property's boundaries. Should the Special Use Permit be approved, the City would recommend that appropriate stipulations be considered to ensure that noise mitigation measures are incorporated into the kennels operations.
  - If left unattended, waste from the kennel may be an odor issue due to the concentration for dogs in such a small area. How is this potential issue being mitigated? Again if the Special Use Permit is to be approved, appropriate stipulations should be considered.
  - Proper fencing and gates will need to be incorporated to ensure that the animals remain on the property and within the kennel. With the introduction of single family homes in this area, it is important for safety reasons that the dogs are securely housed within the kennel.
33. **Other:** The request was also referred to the Arizona Department of Commerce, State of Arizona, Office of the Attorney General, and the West Valley View Newspaper. To date, no response has been received from these agencies.

## **Background:**

34. **August 25, 2004:** Case number V20041034 was initiated due to a complaint received by the Code Enforcement Division in response to complaint of business being run from a residence (air-conditioning business) and kennel with out Special Use Permit.
35. **September 02, 2004:** - The Code Enforcement Division ordered the following corrective action to be completed by Tuesday, October 05, 2004:
- Obtain an approved Special Use Permit for the Operation of a Kennel.
  - Obtain a Zoning Clearance and Building Permit for the un-permitted structures on the property.
  - Cease & Desist the Commercial Business operating on the property

36. **September 28, 2004:** The applicant attended a pre-application meeting with county staff. The pre-application meeting provided the applicant with the criteria required in a narrative and site plan and any other reports to allow a complete review of the request.
37. **March 3, 2005:** Application for SUP for a dog kennel submitted to the county for review under case Z2005030, the subject request.

### **Citizen Participation Plan:**

38. The applicant has complied with the Maricopa County Citizen Review Process. The applicant's Citizen Participation Plan included notifying property owners within 300' of the request and, posting the property for notice of application. No letters of support or opposition have been received.

### **Discussion and Evaluation:**

39. This request is for a twenty (20) year Special Use Permit (SUP) for a dog kennel in the Rural-43 zoning district. The approx. 2.99 acre (223,201 sq.ft.) site is located 850' east of Citrus Rd. between Lower Buckeye Rd & Broadway Rd in the Goodyear area.
40. Research of the code violation case confirmed the Air-conditioning service was not operating out of the residence; however all of the other violations were confirmed during a site visit by the code enforcement officer.
41. The lot was split in 1974 when the land was vacant. The house was built in 1978 and although the lot width did not meet the standard, based on an aerial view of site in the Assessor's database, the house appeared to be in compliance with setbacks. The large awning in the kennel area and the manufactured home were on the site when the applicants purchased it in 2002. The applicant has stated that many of the structures were on the site at time of purchase.

[Aerial view comparison of the site 2004 to 2005 shown on next page]



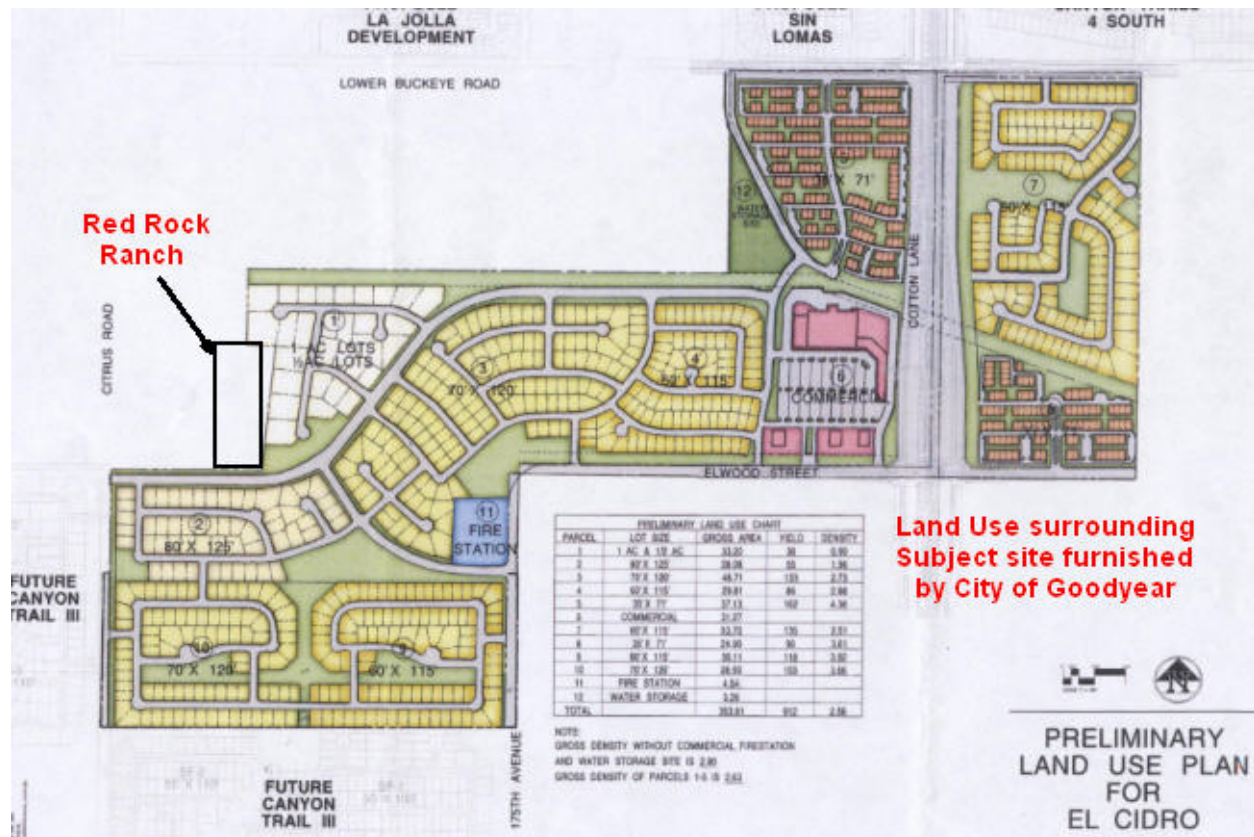


42. All buildings on the site are in violation of MCZO The house addition, & the workshop, built 2004, encroaches into side yard setback and were built without a building permit. The woodshed (chicken coop) encroaches into side yard setback; the manufactured home is not an allowable use. The awnings nearest the east property line may also be encroaching to the side yard setback; however, the setback lines are not shown on the plan and the awnings shown on the plan do not appear to match in size or location to those shown on the aerial view of the site. In addition, there are buildings shown on the aerial view that are not shown on the site plan or discussed in the narrative that may be a code violation.
43. The applicant is using this SUP to request relief from lot width, and side yard setbacks. The narrative states they intend to apply for as-built permits for the workshop and the house addition. Staff points out that those permits can not be issued without approval from either the Board of Supervisors or the Board of Adjustment to alleviate setback issues. The removal of the manufactured home and the woodshed, still leaves buildings on the site in violation of setbacks. The Board of Supervisors is not intended to substitute or replace the Board of Adjustment and typically encroachments into setbacks are reviewed by the Board of Adjustment unless they are granted as a part of an SUP. Approval of the

Special Use Permit, because it encompasses the entire site, would mean approval of all structures on the site as shown on this site plan. Since only the awnings and the workshop are associated with this SUP request, staff can not provide justification for granting relief from setbacks for the house as part of the SUP.

44. The owners have not provided evidence of a kennel permit from Maricopa County Animal Care & Control as required by MCESD prior to SUP approval.
45. Approval of Rural/ Metro Fire Department and Drainage Review were predicated on structures meeting code requirements. Since staff can not state that structures meet code requirements, then acceptance of the "no objection letters from reviewing agencies" is based on a false premise.
46. Staff is cautious about using the SUP to waive the building setback requirement for structures associated with a Special Use. Once the SUP expires the site is still in code violation and the owner is obligated to remove the structures or bring them into compliance through the approval of a variance. The best solution is to apply for a variance first, and comply with the decision of the Board of Adjustment. Once the site is in conformance, and the applicant obtains a Kennel Permit from Maricopa County Animal Care & Control, they may come back with an accurate site plan reflecting all setbacks, buildings heights and meeting all technical requirements for an SUP submittal and pursue their request for a kennel.
47. Rural/Metro Fire Department serves this site and not the City of Goodyear as stated in the narrative and on the site plan. However, due to the fact that the owner thought the City of Goodyear was the applicable Fire Department, staff concludes the owner is not aware they need to contract with Rural/Metro for emergency services.
48. Staff would also point out the subject site is adjacent to a newly approved planned residential development in Goodyear, in a Class 1 county island; however the site is not dependent on Goodyear for any services. The City of Goodyear asked for stipulations to insure containment of the animals on the site, for odor control and noise control. The applicant has addressed the animal containment with the perimeter fencing; odor is controlled by daily pick up of animal waste. The applicant has offered to have the dogs debarked if they present a problem, but a sight obscuring fence may help prevent the dogs from seeing distractions that cause them to bark. Staff has considered Goodyear's requests and concerns and would agree with Goodyear that there may be compatibility issues. Staff believes that 45 to 55 dogs is an intense use adjacent to a residential neighborhood and the use would be better suited to an agricultural or industrial area.

[Illustration of adjacent Planned Area Development on next page]



49. Should the commission consider granting this SUP, staff recommends, the manufactured home and the wood shed be removed from the site within 6 months of BOS approval. In addition, the applicant should apply for a variance for the house. Staff also recommends an SUP of not more than five (5) years, with annual status reports, to assure no further construction on the site without a permit.
50. At the end of that time, the awnings, and work-shop must be brought into compliance with the building setbacks for Rural-43, through the building permit process, or apply for a variance.

### Recommendation:

51. Staff recommends **deny** Z2005030 for the following reasons:
  - The site has multiple violations which should be handled through a variance process
  - The use is not compatible with the surrounding land uses
  - The applicant has not obtained the necessary kennel permit

52. However, should the Commission motion for approval, then staff recommends the following stipulations:

- a. Development of the site shall comply with the site plan entitled "Special Use Permit Site Plan Red Rock Ranch Dog Kennel", consisting of one (1) sheet, dated June 24, 2005, and stamped received March 20, 2006, except as modified by the following stipulations. Within thirty (30) days of Board of Supervisor's approval the applicant shall submit a site plan showing parking dimensions, all dimensions (l, w, h) of all buildings on the site, and a legend explaining their use.
- b. Development of the site shall be in conformance with the narrative report entitled "Special Use Permit for a Dog Kennel Red Rock Ranch", consisting of eight (8) pages, dated (revised) March 10, 2006, and stamped received March 20, 2006, except as modified by the following stipulations.
- c. This Special Use Permit shall only grant relief from setbacks for the workshop/whelping room & the kennel awning. Within thirty (30) days of BOS approval the applicant shall apply for "as-built" permits for the workshop/whelping room & the kennel awning.
- d. Within thirty (30) days of BOS approval the applicant shall apply to the Board of Adjustment (BOA) for a variance for relief from setbacks for all structures on the property except those mentioned in stipulation "c". Should the BOA deny a request for such variances, the applicant shall remove said structures from the property after obtaining the necessary demolition permits.
- e. Within thirty (30) days of Board of Supervisor's (BOS) approval and prior to zoning clearance for as-builts the owner and/or builder shall obtain a demolition permit for removal of the manufactured home. The manufactured home must be removed from the site prior to issuance of as-built permits.
- f. The applicant shall obtain a kennel permit from the Maricopa County Animal Care & Control. The kennel shall comply with the applicable provisions of the Maricopa County Health Code, Chapter XI.
- g. The applicant shall construct a view obscuring fence along the east property line, and take other measures as appropriate to assure the dog's bark does not disturb the peace of the neighborhood.
- h. All transformers, back-flow prevention devices, utility boxes and all other utility related ground mounted equipment shall be painted to complement

the development and shall be screened with landscape material where possible. All HVAC units shall be ground-mounted.

- i. All outdoor lighting shall conform to the Maricopa County Zoning Ordinance.
- j. The owner shall be aware that they are located within the state-defined "territory in the vicinity of a military airport" with the following language:

"You own a home or property in the 'vicinity of a military airport' as described by State of Arizona statute A.R.S. §28-8481. Your house should include sound attenuation measures as directed by State law. You will be subject to direct over flights and noise by Luke Air Force Base jet aircraft in the vicinity.

Luke Air Force Base executes over 200,000 flight operations per year, at an average of approximately 170 overflights per day. Although Luke's primary flight paths are located within 20 miles from the base, jet noise will be apparent throughout the area as aircraft transient to and from the Barry M. Goldwater Gunnery Range and other flight training areas.

Luke Air Force Base may launch and recover aircraft in either direction off its runways oriented to the southwest and northeast.. Noise will be more noticeable during overcast sky conditions due to noise reflections off the clouds.

Luke Air Force Base's normal flying hours extend from 7:00 a.m. until approximately midnight, Monday through Friday, but some limited flying will occur outside these hours and during most weekends.

For further information, please check the Luke Air Force Base website at [www.luke.af.mil/urbandevelopment](http://www.luke.af.mil/urbandevelopment) or contact the Maricopa County Planning and Development Department."

- k. All habitable buildings constructed within this subdivision shall be constructed to attain a noise reduction level as per ARS § 28-8482(B).
- l. Development and use of the site shall comply with requirements for fire hydrant placement and other fire protection measures as deemed necessary by the applicable fire department. Within six (6) months of Board of Supervisor approval the applicant shall seek review and comment from the applicable fire protection agency, and shall provide written confirmation that the site has been developed in accordance with their requirements.

- m. Prior to zoning clearance (as-builts), the owner and/or builder shall establish emergency fire protection services, covering all real property contained within the project area during course of construction and shall obtain a 'will serve' letter substantiating coverage from the appropriate Fire Department servicing the site.
- n. This Special Use Permit shall expire five (5) years from the date of approval by the Board of Supervisors, or upon termination of the use, whichever occurs first. The kennels shall be removed within 60 days of such termination or expiration.
- o. The applicant shall submit a written report outlining the status of the development at the end of one year from the date of approval by the Board of Supervisors. The status report shall be reviewed by staff to determine whether the Special Use Permit remains in compliance with the approved stipulations.
- p. Major changes to the Special Use Permit shall be processed as a revised application, with approval by the Board of Supervisors upon recommendation of the Planning and Zoning Commission. Minor changes may be administratively approved by the Planning and Development Department. Major changes to the Special Use Permit may require a new Citizen Participation Process as determined by the Planning and Development Department.
- q. Noncompliance with the conditions of approval will be treated as a violation in accordance with the Maricopa County Zoning Ordinance. Further, noncompliance of the conditions of approval may be grounds for the Planning and Zoning Commission to take action in accordance with the Maricopa County Zoning Ordinance.
- r. Non-compliance with the regulations administered by the Maricopa County Environmental Services Department, Maricopa County Department of Transportation, Drainage Review Division, Planning and Development Department, or the Flood Control District of Maricopa County may be grounds for initiating a revocation of this Special Use Permit as set forth in the Maricopa County Zoning Ordinance.

pz

Attachments:

Case map (1 page)  
Vicinity map (1 page)  
Site plan (reduced 8-½" x 11", 1 page)  
Narrative report (8 pages)  
MCDOT comments (memo, 1 page)  
MCESD comments (memo, 1 page)  
Drainage Review comments (memo, 1 page)  
LAFB comments (letter, 1 page)  
RMFD comments (letter, 1 page)  
City of Goodyear comments (1 letter, 3 pages)

Enclosure:

Site plan (1 full-size sheet)